

76-13-103. Applicability. Part 2 and this part apply to all state and private lands within this state that are susceptible to wildfire, as determined by the department.

History: En. Sec. 4, Ch. 128, L. 1939; amd. Sec. 3, Ch. 141, L. 1941; amd. Sec. 1, Ch. 94, L. 1959; amd. Sec. 3, Ch. 253, L. 1974; R.C.M. 1947, 28-104(2); amd. Sec. 3, Ch. 27, L. 1997; amd. Sec. 5, Ch. 336, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 336 substituted "state and private lands" for "forest lands" and at end substituted "susceptible to wildfire, as determined by the department" for "officially classified by the department as forest lands according to the definition of forest land in 76-13-102"; and made minor changes in style. Amendment effective June 1, 2007.

76-13-104. Functions of department — rulemaking. (1) The department has the duty to ensure the protection of land under state and private ownership and to suppress wildfires on land under state and private ownership. No fees may be collected for this purpose except fees provided for in 76-13-201.

(2) (a) The department shall adopt rules to protect the natural resources of the state, especially the natural resources owned by the state, from destruction by fire and for that purpose, in declared emergencies, may employ personnel and incur other expenses when necessary.

(b) The department may adopt and enforce reasonable rules for the purpose of enforcing and accomplishing the provisions and purposes of part 2 and this part.

(3) The duty imposed on the department under this section is not exclusive to the department and does not absolve private property owners or local governmental fire agencies organized under Title 7, chapter 33, from any fire protection or suppression responsibilities.

(4) The department may give technical and practical advice concerning forest, range, water, and soil conservation and the establishment and maintenance of woodlots, windbreaks, shelterbelts, and fire protection.

(5) The department shall cooperate with all public and other agencies in the development, protection, and conservation of the forest, range, and water resources in this state.

(6) The department shall establish and maintain wildland fire control training programs.

(7) The department shall appoint firewardens in the number and localities that it considers necessary, subject to confirmation by the local county government, and shall adopt rules prescribing the qualifications and duties of firewardens that are in addition to those provided in 76-13-116.

(8) By October 1, 2008, the department shall adopt rules addressing development within the wildland-urban interface, including but not limited to:

(a) best practices for development within the wildland-urban interface; and

(b) criteria for providing grant and loan assistance to local government entities to encourage adoption of best practices for development within the wildland-urban interface.

History: En. Sec. 6, Ch. 128, L. 1939; amd. Sec. 5, Ch. 253, L. 1974; amd. Sec. 3, Ch. 397, L. 1977; R.C.M. 1947, 28-106(1), (4), (6); amd. Sec. 4, Ch. 529, L. 1981; amd. Sec. 3, Ch. 423, L. 1989; amd. Sec. 34, Ch. 336, L. 2007.

Compiler's Comments

2007 Amendment — Coordination: Section 34, Ch. 336, L. 2007, a coordination section, inserted (1) establishing the department's duty to protect state and private land and to suppress wildfires on these lands; inserted (2) establishing that the department shall adopt rules to protect the state's natural resources and may, in declared emergencies, employ personnel and incur other expenses; inserted (3) specifying that the department's duties do not absolve private property owners and local governmental fire agencies from fire protection responsibilities; inserted (6) requiring the department to establish and maintain wildland fire control training programs; deleted former (3) that read: "(3) The department shall require an owner or operator to provide a notification prior to conducting forest practices as provided in 76-13-131, shall adapt as necessary any procedure used for notification with respect to an agreement under 76-13-408 to ensure that the operator provides information on the location of the forest practices in relation to watershed features, and shall conduct onsite consultations as provided for in 76-13-132"; inserted (7) requiring the department to appoint firewardens and adopt rules describing their qualifications and duties; inserted (8) making October 1, 2008, the deadline for department rules on best practices for development within the wildland-urban interface and criteria for providing grant and loan assistance to local governments for development of best practices; and made minor changes in style. Amendment effective June 1, 2007.

The amendments to this section made by sec. 6, Ch. 336, L. 2007, were rendered void by sec. 34, Ch. 336, L. 2007, a coordination section.

Cross-References

Exchange of timbered, cut-over, or burned-over lands, 77-2-211.